

IN THE CLAIMS

Kindly substitute the following marked up claims for the claims as originally filed.

1. (Currently amended) A ball retrieval and storage device comprising:

a basket having opposing front wall and rear wall and two opposing side walls interconnected with said front and rear walls;

rotatable handle members secured to two opposing walls, said handle members rotatable from a handle orientation to a stand orientation;

a bottom wall comprised of a plurality of rod members including first fixed rod members and second, solid, non-hollow, displaceable rod members extending between opposing side walls or between opposing front wall and rear wall, said second, solid, non-hollow, displaceable rod members having a first end and a second end, said first and second ends disposed between a vertically divergent channel formed by said opposing side walls or opposing rear wall and front wall, said first and second ends of said second, solid, non-hollow, displaceable rod members having a securing means affixed to said first and second ends to maintain said rod members in said channel, said second, solid, non-hollow, displaceable rod members movable from ~~said~~ a lower portion of said channel to an upper portion of said channel under the influence of downward pressure on a ball having an equator to be retrieved, said second, solid, non-hollow, displaceable rod members returning to said lower portion of said

channel after said equator of said ball has passed there between, said second, solid, non-hollow, displaceable rod members formed of a material having elastic memory allowing said second, solid, non-hollow, displaceable rod members to deform slightly under the influence of said ball to be retrieved and to return to an original undeformed state.

2. (Original) A ball retrieval and storage device in accordance with Claim 1 wherein said front wall, rear wall, and opposing side walls are of mesh construction having a plurality of intersecting horizontal and vertical rod members.

3. (Original) The ball retrieval and storage device in accordance with Claim 2 wherein said vertical divergent channel is defined by said horizontal rod of said mesh construction and a pair of said vertical rod members of said mesh construction intersecting with said horizontal rod member and in vertical divergent orientation.

4. (Currently amended) The ball retrieval and storage device in accordance with Claim 1 wherein said bottom wall is formed by two first fixed rod members on an outer periphery of said bottom wall ~~member~~ and a plurality of second, solid, non-hollow, displaceable rod members disposed in parallel relationship there between.

5. (Currently amended) The ball retrieval and storage device in accordance with Claim 1 wherein said second, solid,

non-hollow, displaceable rod members are formed of an elastic memory material from the group comprising polycarbonate, nylon, fiberglass, ABS, polypropylene and polyethylene.

#### APPLICANT'S INVENTION

A ball retrieval and storage device in which a user can retrieve a ball lying on the ground by forcing the bottom of the container down over the top of the ball, the bottom of the retainer defined by a plurality of parallelledly disposed rods which are displacable within a channel, the rods further being formed of a material having elastic memory such that the rods over time will not permanently deform so as to decrease the efficacy of the ball retrieval and storage device.

## THE REJECTION

Claim 1 is rejected pursuant to 35 U.S.C. §112 as failing to comply with the enabling requirement. Claims 1 through 5 are rejected under 35 U.S.C. §112 as being indefinite for failure to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1 through 5 are rejected pursuant to 35 U.S.C. §103(a) as being unpatentable in view of Chen in view of Verde.

The Abstract is rejected to because it contains legal phraseology.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because of inclusion of reference characters not mentioned in the description.

## DISCUSSION

Applicant has addressed the Examiner's rejection under 35 U.S.C. §112, the enabling requirement by amending the specification pages 4 and 5 to provide support for the language contained in Claim 1.

The Applicant respectfully submits that it has overcome the rejection under 35 U.S.C. §112 for failing to particularly point out and distinctly claim the subject matter by the amendments to Claim 1.

The Applicant respectfully submits that it has overcome the objection to the Abstract by submitting an amended marked up Abstract which removes the legal phraseology. Applicant has corrected the specification with respect to the designation of figures and respectfully requests that this objection is now obviated.

Applicant has submitted revised drawings with this Amendment making corrections as set forth in paragraphs 8 and 9 of the Office Action.

The remaining issue is the rejection of Claims 1 through 5 pursuant to 35 U.S.C. §103(a) as being unpatentable and rendered obvious by Chen in view of Verde.

Chen in Figure 8 as pointed out by the Examiner illustrates a collection basket, however, the collection basket of Chen in Figure 8 is still designed to be utilized with the cart means

which Chen utilizes for the collection of a tennis ball. In the operation of the embodiment as illustrated in Figure 8 by Chen, the basket would be in the lower position on Chen's cart. It would be rolled over the tennis court and balls would enter aperture 78'' and encounter the slanted side members 72 allowing for side members 72'' to move upward and outward to allow the ball to enter the basket and then return to their position under the influence of gravity. Applicant's invention does not utilize a roller cart as per Chen. Still further, Applicant's moveable rod members 42 are not arranged or oriented in a slanting manner, but are parallel and are at an equal height at both ends.

Applicant's basket accomplishes its collection by forcing the basket down over the ball so that the moveable rod members 42 being constructed of elastic memory material allow the ball to temporarily slightly deform them so that the equator of the ball passes above the moveable rods 42 and is retained in the basket. This procedure is repeated for each ball retrieved. Chen retrieves the ball by using a roller cart which is rolled about the surface gathering the balls as previously described. The Verde reference shows a plurality of ball retrieving rods (16) formed of resilient plastic. However, the Verde retrieving rods are tubular in nature and are secured about a solid rod. Applicant's moveable rods or ball retrieving rods are of a solid




nature as supported by the drawings and constructed of an elastic memory material.

The combination of Verde with Chen would result in a roller cart having slanted displaceable rods and further having a tubular plastic rod coincidental with Chen's displaceable rod members. This is not the structure taught nor disclosed, nor claimed by the Applicant.

In light of the foregoing amendment and discussion, Applicant respectfully submits that the application and the claims contained therein are in condition for allowance and a notice of same is respectfully solicited.

Respectfully submitted,

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movable rod member is then automatically released from the contact and the ball and the stop means to drop to its closed position to provide a portion of the container bottom which will retain the ball in the container. The movable rod members are formed of a material having an elastic memory such that for use over time, the movable rod members will not permanently deform so as to decrease the efficacy of the ball retrieval and storage device.

#### BRIEF DESCRIPTION OF THE DRAWINGS

These and other objects of the present invention will become apparent, particularly when taken in light of the following illustrations wherein:

Figure 1 is a perspective view of the ball retrieval and storage device of the prior art;

Figure 2 is an end view of the ball retrieval device of the prior art;

Figure 3 is an end view ~~along plane 3-3 of Figure 1~~ of the lower portion of the ball retrieval and storage device of the present invention illustrating its improved structures; and

Figure 4 is a side view ~~along plane 4-4 of Figure 1~~ of the lower portion of the ball retrieval and storage device of the present invention illustrating its improved structure.

#### DETAILED DESCRIPTION OF THE INVENTION

Referring to Figures 1 and 2, a typical ball retrieving and storage device 10 of the prior art includes an open top container made of intersecting rods constructed of wire tubes or other

suitable material. The container includes several vertically spaced apart rectangular rod frames 12 lying in substantial parallel planes. The bottom rectangular frame 12 includes long legs 12A and short legs 12B. The rectangular frames are oriented relative to each other so that their corners are in common substantially vertical planes. A series of substantially upright elongated rods 14 lying in mutually substantially parallel planes are secured to the outer edges of the rectangular frames to form a rigid, rectangular, skeleton framework for the container. The enclosed areas of the rectangular frames progressively increase towards the top of the container and upright legs 14 diverge slightly outwardly from each other so that the container has outwardly tapered side walls.

The downwardly opening substantially U-shaped elongated rotatable handle 16 extends above the container. The handle includes legs 18 which taper narrower towards the top of the handle. The bottom portions of the legs are bent outwardly and then extend downwardly at 20 for attachment to a substantially U-shaped frame like bracket 22 which open inwardly toward the container and extend around respective pairs of container legs 14 at opposite ends of the container.

In the prior art, the bottom of the container preferably includes one or more elongated fixed center rod 26 extending parallel to long legs 12A of rectangular bottom frame 12 and rigidly secured to the top of the frames short legs 12B along the center line. The bottom of the container would also include a